

REMARKS

A Supplemental Submission and Supplemental Declaration Of Edward Rahe was filed on February 12, 2004. In a telephone conference with the undersigned attorney on February 23, 2004, the Examiner indicated that he had not yet examined the Supplemental Submission and Declaration which were filed to submit new evidence in support of patentability. The Examiner stated that when he received the Supplemental Submission and Declaration he would consider them and issue another non-final Office Action. Since no additional Office Action has been issued in the instant application, the undersigned is filing this Second Supplemental Submission in response to the Office Action mailed February 17, 2004 to advance the application to issuance, and to avoid the issue of whether there would be a need to file an extension of time when the Examiner issues the new non-final Office Action.

Claim Rejections – 35 USC §112

The Examiner has withdrawn the prior §112 rejections but has added two new §112 rejections, one of claim 18 and the other of claim 21. Claim 18 has been amended to overcome this rejection, and claim 21 has been cancelled and completely rewritten as new claim 43 to overcome the rejection. In both cases, the rejection in the Office Action has been carefully read and it is believed that the amendment and new claim overcome the rejection.

Claim Rejections – 35 USC §103

Six rejections under 35 USC §103 have been repeated. A response to each of these rejections has been included in the Supplemental Response, which response is hereby incorporated by reference to the same extent as though fully contained herein.

New 35 USC §103 Rejection

Claim 18 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Sobolev in view of Fitzgerald et al. and further in view of Toedter. This rejection is respectfully traversed. Claim 18 is dependent on claim 14 which is dependent on claim 1. Both claims 1 and 14 are patentable for the reasons given in the Supplemental Response, and therefore claim 18 is also patentable for this reason. *In re Fine*, 5 USPQ 2d 1596,

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1600 (Fed. Cir. 1988) at headnote 4 and MPEP 2143.03. In addition, none of the cited references show a double-thick flange on the end of a panel. Toedter is cited not to show a double-thick flange, but to provide motivation for making a double-thick flange. It shows a decorative panel bent over on itself to form a double-thick panel, but this is taught to be done to provide a finished appearance in the decorative panel and resistance to crush. See column 1, lines 47 – 57. Since the device claimed is a concrete formwork panel in which the motivation of a finished appearance is irrelevant, and resistance to crush is not a problem, since the single-thickness panel is sufficiently crush resistant, Toedter cannot effectively provide motivation.

The Answers To Applicant's Arguments provided in the Office Action are mute in view of the Supplemental Submission which addresses all of the issues in this section.

Claim 21 is indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 21 has not been rewritten because it depends on claims 19 and 1, which are patentable. *In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) at headnote 4 and MPEP 2143.03.

In view of the foregoing, claims 1 – 12, 14 – 28, and 39 – 42 are patentable, and their reconsideration and allowance are respectfully requested. No additional fee is seen to be due. However, if any other fee is required, please charge it to Deposit Account No. 50-1848.

Respectfully submitted,
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